

Applicants: Lionel Vedrine  
Serial No.: 10/520,981  
Filing Date: August 29, 2005  
Docket No.: P-5753 (102-627 PCT/US RCE)  
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### **REMARKS**

Reconsideration of the application is respectfully requested.

Claims 1 and 5-8 are in the application. Through this Amendment, the Specification and Abstract have been amended. In addition, claims 1, 6 and 8 have been amended, and claims 2-4 have been cancelled.

In the Official Action, the Examiner objected to the drawings as allegedly not showing all of the claimed features. First, the Examiner asserted that “the means for holding the needle in position” is not shown in the drawings. In response, reference is made to paras. [0044] and [0055] of the application as published referencing tabs 29 which are shown in at least Fig. 4. Second, the Examiner asserted that “the means for holding the container in position” is not shown in the drawings. In response, reference is made to paras. [0050] and [0057] of the application as published which refer to tabs 39 which are shown in at least Fig. 6. Third, the Examiner asserted that “the respective means for operating said means of holding the needle in position and said means of holding the container in position” are not shown in the drawings. In response, reference is made to para. [0057] of the application as published which discusses walls 32 and 42 which are formed to engage with tabs 29 and 39, respectively. Walls 32 and 42 are shown in at least Fig. 3. Fourth, the Examiner asserted that “the pierceable zone of the piston” is not shown in the drawings. In response, claim 4, which had contained this limitation, has been

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cancelled. Fifth, the Examiner asserted that the limitation of “the body forming a distal wall perpendicular to the access of the needle” is not shown in the drawings. In response, claim 6, which includes this limitation, has been amended to refer to a --distal end-- rather than a “distal wall”. With reference to para. [0055] of the application as published, the distal end is clearly discussed in the context of Fig. 6. Sixth, the Examiner asserted that the “needle-supporting part with at least one locking means” is not shown in the drawings. In response, reference is made to the part 6 discussed generally in the Specification and shown in at least Fig. 2. Seventh, the Examiner asserted that “the at least one tab that comprises a locking means able to engage with that of the needle-supporting part” is not shown in the drawings. In response, reference is made to the tabs 29 discussed above. Eighth, the Examiner asserted that the “engagement means integral with the plunger” is not shown in the drawings. In response, this limitation has been deleted from claim 8. Ninth, the Examiner asserted that the “at least one tab” is not shown in the drawings. In response, reference is made to the tabs 39 discussed above. In view of the foregoing, it is respectfully submitted that all limitations set forth in the claims are present in the drawings.

In the Official Action, the Examiner objected to the Abstract on the basis of the use of the term “said”. In response, the Abstract has been amended to replace the term “said” with the term --the--. In view of this amendment, it is respectfully submitted that the Abstract is in accord with standard U.S. practice.

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The Examiner objected to the disclosure and set forth a requirement that Applicant is “to explicitly state, with reference to the terms and phrases of the claim element, what structure, materials, and acts perform the function recited in the claim element.” In response, it is unclear where the Examiner is obtaining legal authority. The Examiner cited MPEP §608.01(o) and quoted from this provision. However, the present version of MPEP §608.01(o) does not include the Examiner’s quote. Clarification of this requirement is requested.

The Examiner objected to the Specification as allegedly failing to provide proper antecedent basis for the claimed subject matter. In response, the Specification has been amended to refer to the piston being in the second configuration “without the needle 4 piercing the piston 11.” It is respectfully submitted that the Specification, as amended, is in accord with standard U.S. practice.

The Examiner objected to claims 1-8 and, in particular, the Examiner stated that “the Examiner has objected to the claims for the reasons set forth above in the objection to the Specification.” It is unclear what requirement is being set forth for the Applicant. Clarification is respectfully requested.

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Claims 1-7 were rejected under 35 U.S.C. §102(e) as being allegedly anticipated by Barker et al. (U.S. Patent No. 6,981,963).

Barker et al. is directed to a pre-filled safety diluent injector which includes dual chambers, as shown for example in Fig. 18. First chamber 252 includes a wet component 254 and second chamber 256 includes a dry component 258. Piston 270 separates the first and second chambers 252 and 256. During use, as shown in Fig. 20, the plunger 240 is driven forwardly, with the piston 270 coming into alignment with a by-pass channel 260 formed in the wall of the barrel of the injector. The wet component 252 is caused to pass through the channel 260 and into the second chamber 256 to mix with the dry component 258. As shown in Fig. 21, the plunger 240 ultimately causes all of the wet component to be driven into the second chamber 256.

Claim 1, the only independent claim presently pending, is directed to a device for injecting a product which includes “a body housing a hollow injection needle and a container containing the injectable product”. In addition, the device includes “a piston engaged in the container and so shaped to have a blind hole located adjacent a peripheral portion” wherein “in a first configuration of the piston or relative position of this piston and of this container, it closes the container in such a way as to isolate the product from the environment outside this container” and “in a second configuration of the piston or relative position of this piston and of this

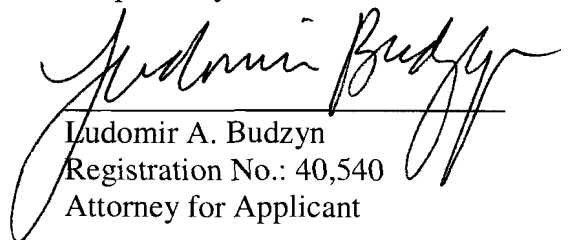
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container, said peripheral portion of said piston is deflected into said blind hole so as to allow the product to pass between said piston and said container and out of the container". With reference to the figures of the subject application, the first configuration of the piston is shown in Fig. 6, wherein the second configuration of the piston is shown in Fig. 7. In contrast to the device of claim 1, Barker et al. does not provide a blind hole in a piston which is deflectable to permit fluid to by-pass. Rather, Barker et al. relies on a by-pass channel formed in the barrel of the injector. The piston in Barker et al. is formed cross-sectionally solid throughout. It is respectfully submitted that claim 1, along with dependent claims 5-8, are patentable over Barker et al.

Applicant is pleased to note the indication that claim 8 includes patentable subject matter.

Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examiner is respectfully requested to contact Applicant's attorney at the number listed below.

Respectfully submitted,

  
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